

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Complaint on Sunday
and Holiday Collections

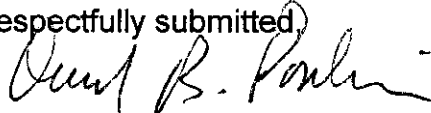
Docket No. C2001-1

DAVID B. POPKIN MOTION FOR RECONSIDERATION OF PRESIDING OFFICER'S
RULING C2001-1/6 AND POTENTIAL MOTION FOR LATE ACCEPTANCE

August 1, 2001

On July 23, 2001, the Presiding Officer granted the Motion of Douglas F. Carlson to compel the Postal Service to respond to interrogatory DFC/USPS-19 which requested several data elements from the Postal Service's Collection Box Management System [CBMS] database for each collection box in the United States. The Presiding Officer allowed the Postal Service to provide these data under protective conditions. This motion is being mailed on August 1, 2001, and should arrive at the Commission on August 3, 2001, under current USPS standards. In the event that it does not arrive by the deadline, I move for late acceptance.

Respectfully submitted



August 1, 2001

David B. Popkin, PO Box 528, Englewood, NJ 07631-0528

I support the Motion filed by Mr. Carlson and wish to indicate my concern with the effect that the imposition on protective conditions would have on this data. I too, like Mr. Carlson, have been engaged in the past number of years in discovering numerous instances where the Postal Service did not comply with their own regulations relating to the policies for collection boxes and their posted times. These complaints have been directed to postal officials all over the country including the Washington DC Postmaster concerning discrepancies with the collection boxes in front of Postal Service Headquarters and in the lobby of the Postal Rate Commission down to far smaller offices. The information for these complaints has been received in many ways including

personal visits, calls to the 1-800-ASK-USPS and direct post office numbers, and FOIA requests for CBMS reports.

The Commission must keep in mind that the data that would be provided in response to DFC/USPS-19 would contain all of the information about every one of the collection boxes in the country. Also keep in mind that 100% of this voluminous amount of data is already in the public domain.

The imposition of protective conditions for information that is already in the public domain poses severe problems. These problems are multiplied infinitely if one reads and applies the **specific words** of the protective conditions agreement **literally**. While some of these comments may create the impression that my concerns are overblown, if I don't take the specific words of the protective conditions agreement and apply them literally, I am engaging in selective compliance by only complying with and to the extent that I perceive the intent rather than the words stated.

1. The opening sentence of the Statement of Compliance states, in part, "The following protective conditions limit access to materials..." All of the data contained in these materials is already accessible to any person.

2. Any individual seeking to obtain access to such material must agree to comply with these conditions. Actually, only Mr. Carlson, members of the OCA, and myself are the only individuals who must do so. All of the other individuals in the country already have access to all of these materials.

3. Paragraph 2, as well as paragraph 5, states that the material may not be disseminated in whole **or in part** to anyone other than the limited few signing certifications. This would mean that I could not again write a single letter of complaint regarding improper collection times or locations to another Postmaster if it utilized even one single piece of data regarding a collection box. Obviously, any letter would and therefore would not be permitted. I could not answer a friend's request for information

on how late he could mail a letter by the Englewood Post Office that night, because that data is contained in these materials. This would even apply if I did not utilize the material provided in response to DFC/USPS-19 because the information is still contained in that material.

4. Paragraph 6 states I would be required to protect these materials with a reasonable degree of care. The Postal Service has already released 100% of this data in the public domain to all individuals without such conditions.

5. Paragraph 8 would require me to maintain nondisclosure for the rest of my life. It would prohibit any further evaluation of or complaint about any collection box in the future. This duty could be terminated only by a specific order of the Commission. This would require me to petition the Commission for such relief prior to my sending any such complaint letter to a local Postmaster or to answering my friend's request on how late he could mail a letter that evening.

6. The third paragraph of the Certification and Item 2 of the Certification upon Return states that the information may only be used for purposes of analyzing matters at issue in Docket No. C2001-1. This condition even goes beyond the non-C2001-1 disclosure items mentioned above. It would prohibit me from utilizing any collection time for my own personal needs [beyond than those relating to litigating this Docket]. Even the mere looking at a collection box label on a mailbox and determining that the final collection had not yet been made so that I could mail my letter for dispatch that day would be a violation of this Certification because that same information is contained in these materials.

7. Items 3 and 4 of the Certification upon Return require the return or destruction of all of these materials upon completion of this Docket. This would not only require the return or destruction of the physical material received in response to DFC/USPS-19 but also of any other CBMS files that I had and copies of the probably hundreds of letters of complaint that I have sent out relating to collection boxes over the past years.

Commercial Non-Disclosure Agreements specifically exempt information that is or becomes generally known to the public through no fault or breach of the agreement by the receiving party. Not only is 100% of the information contained in the response to DFC/USPS-19 known to the public already but the reason that it is known is because of the need of the Postal Service to provide this data to the mailing public.

At this time I am unable to see signing the protective conditions request to obtain access to this data because of the possibility of the legal exposure that would result. I cannot exclude the possibility that the Postal Service will use these protective conditions as a legal weapon should I attempt to conduct any further communications regarding posted collection times on collection boxes. The overly broad wording of the protective conditions would appear to increase this concern.

I feel that my ability to fully litigate Docket 2001-1 is being restricted by the imposition of protective conditions on information that is already in the public domain. These conditions should be removed.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with Rule 12.

August 1, 2001


David B. Popkin